

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

SYLVESTER ROGERS, JR.,

Plaintiff,

VS.

NUECES COUNTY JAIL, *et al*,

Defendants.

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CIVIL ACTION NO. C-07-410

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION  
TO DISMISS CERTAIN CLAIMS AND TO RETAIN CASE**

On November 29, 2007, United States Magistrate Judge B. Janice Ellington signed a Memorandum and Recommendation recommending as follows:

1) that plaintiff's oral motion to substitute Nueces County and dismiss the Nueces County Jail and Nueces County Sheriff's Department be granted;

2) that plaintiff's Eighth Amendment and due process claims concerning the conditions of his confinement against Nueces County be retained on the Court's docket and service ordered on this defendant;

3) that plaintiff's claim of deliberate indifference to serious medical needs against Nurse Jane Doe be retained and service ordered on this defendant; and

4) that plaintiff's due process claim concerning his grievances be dismissed with prejudice for failure to state a claim and as frivolous. 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1).

On December 3 and 10, 2007, plaintiff filed Objections to the Magistrate's Recommendations.

Having reviewed the findings of fact and conclusions of law therein, as well as the pleadings on file and plaintiff's objections, and having made a *de novo* disposition of those portions of the Magistrate Judge's recommended disposition to which objections were raised, *see Koetting v. Thompson*, 995 F.2d 37 (5th Cir. 1993), 28 U.S.C. § 636(b)(1)(C); Fed.R.Civ.P.72(b), the Court hereby adopts as its own the findings and conclusions of the Magistrate Judge. Accordingly, it is ORDERED as follows:

1) plaintiff's oral motion to substitute Nueces County and dismiss the Nueces County Jail and Nueces County Sheriff's Department is granted;

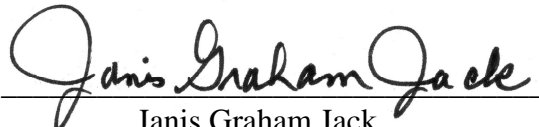
2) plaintiff's Eighth Amendment and due process claims concerning the conditions of his confinement against Nueces County is retained on the Court's docket and service ordered on this defendant;

3) plaintiff's claim of deliberate indifference to serious medical needs against Nurse Jane Doe is retained and service ordered on this defendant; and

4) plaintiff's due process claim concerning his grievances is dismissed with prejudice for failure to state a claim and as frivolous.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 13th day of December, 2007.

  
Janis Graham Jack  
United States District Judge